Calendar No. 145

99TH CONGRESS
1st Session

SENATE

REPORT
99-65

CLARIFYING THE APPLICATION OF THE CARGO PREFERENCE LAWS TO THE EXPORTATION OF UNITED STATES AGRICULTURAL COMMODITIES

MAY 20 (legislative day, APRIL 15), 1985.—Ordered to be printed

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Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 721]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 721) to amend the Commodity Credit Corporation Charter Act regarding the export of agricultural commodities, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill, as amended, do pass.

SUMMARY OF MAJOR PROVISIONS

The bill clarifies the application of the cargo preference laws to certain activities of the Secretary of Agriculture or the Commodity Credit Corporation (CCC). The bill specifically provides that the cargo preference laws do not apply to export activities undertaken by the Secretary or the CCC—

(1) under which CCC-owned stocks of agricultural commodities or products are made available to U.S. exporters, users, processors, or foreign purchasers for the development, maintenance, or expansion of U.S. agricultural export markets;

(2) under which commercial credit guarantees are blended with CCC direct credits to reduce the effective interest rate on export sales of U.S. agricultural commodities and products;

(3) under which CCC credit or credit guarantees are extended for not more than 3 years to finance or guarantee export sales of U.S. agricultural commodities or products; or

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(4) for the purpose of promoting the export of U.S. agricultural commodities or products, if the Secretary determines that such activities are necessary to cause such commodities or products to become or remain competitive under conditions prevailing in international trade.

The bill makes no change in the application of the cargo preference laws to the export activities of the Secretary or the CCC when these activities are carried out under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) or subsections (a), (b), and (c) of section 416 of the Agricultural Act of 1949.

The bill will not apply to any export activity undertaken to carry out any agreement entered into prior to the date of enactment.

BACKGROUND AND NEED

The Commitee on Agriculture, Nutrition, and Forestry has had, and continues to have, great interest in and concern about the application of cargo preference laws to agricultural export programs authorized by the Committee and carried out by the Secretary of Agriculture or the Commodity Credit Corporation.

During the 98th Congress, the Committee reported S. 822 (Report No. 98–27), the Agricultural Export Equity and Market Expansion Act of 1983. Section 209 of that bill exempted from the cargo preference laws all export activities of the Commodity Credit Corporation (CCC) under which stocks of CCC-owned commodities and their products are made available to encourage the development, maintenance, or expansion of U.S. export markets. Section 209 also exempted the "blended credit" program, under which commercial credit guarantees are blended with direct, interest-free credits from the CCC to reduce the effective rate of interest charged in financing the purchase of these commodities. These programs stimulate the sale of U.S. commodities for export.

Due to scheduling conflicts, however, S. 822 could not be considered on the floor of the Senate during the 98th Congress.

Since that time, the Committee's concern about the issue of cargo preference has increased. On February 21, 1985, the U.S. District Court for the District of Columbia in *Transportation Institute* v. *Dole,* No. 83–3048, (D.D.C. Feb. 21, 1985) ruled that the cargo preference laws should be applied to the blended credit program of the Department of Agriculture.

Although the Administration is appealing this decision, the additional cost of operation of the blended credit program resulting from the payment of higher shipping costs, estimated at $40 to $50 million, has forced the Secretary of Agriculture to suspend operation of this program.

Suspension of the blended credit program is preventing the export of over $500 million worth of U.S. agricultural commodities at a time when U.S. agricultural export performance and farm income are on a downward path. The Committee believes that the Secretary must use every export tool available to reverse this trend—unencumbered by expensive cargo preference requirements.

The Committee believes that the cargo preference laws should not apply to commodity export incentive, blended credit, or short-term direct and guaranteed export credit programs. The Committee

wishes to make it clear that the Committee believes that, as a matter of law, the cargo preference laws do not apply to these programs, and would not apply but for the decision in *Transportation Institute* v. *Dole* applying the cargo preference requirements to the blended credit program. The Committee also believes that programs to make agricultural exports competitive under conditions prevailing in international trade should not be subject to cargo preference. It should be noted that the intermediate export credit program is currently exempted from cargo preference by statute.

CARGO PREFERENCE REQUIREMENTS

The Merchant Marine Act, 1936, as amended, provides that 50 percent of the gross tonnage of certain government-generated shipments of commodities must be transported on private U.S.-flag commercial vessels to the extent that such vessels are available at fair and reasonable rates. The stated purpose for creating this shipping preference for U.S.-flag commercial vessels is to support and maintain the U.S. merchant marine fleet for use in commerce and for national defense.

The U.S. Government's long-standing interpretation of the cargo preference laws is that these laws apply only to transactions involving a substantial element of foreign aid or assistance. The "test" established by the United States Attorney General in 1963 to determine whether the cargo preference laws are applicable to credit transactions involving sales of surplus agricultural commodities owned by the Commodity Credit Corporation is whether the transaction is a normal commercial transaction or whether it involves some substantial element of foreign aid or assistance. (See 42 Op. A.G. No. 14, p. 12, Aug. 29, 1963.) The Attorney General stated that cargo preference applied only in the latter instance.

This "test" was reiterated by the Department of Justice in a December 6, 1965, letter from Assistant Attorney General Norbert A. Schlei to Mr. John C. Bagwell, General Counsel of the Department of Agriculture, and was endorsed by the Senate Committee on Commerce during the 88th Congress. (See S. Rept. No. 871, 88th Cong., 2nd Sess., pp. 5–6.)

Citing at length to the legislative history of the cargo preference laws, the Department of Justice pointed out in its 1965 letter to Mr. Bagwell that, at every stage in the development of the cargo preference laws, there was repeated emphasis on the point that the bill was directed against foreign aid "giveaways" and was not intended to have any effect whatever on commercial cargoes. Thus, while the cargo preference requirements have consistently been held to apply to concessional sales and humanitarian food donations, such as those made under Public Law 480, cargo preference has not been applied to transactions under the Commodity Credit Corporation's export credit sales programs.

The key distinction made by the Department of Justice on this point is that concessional sales have the purpose of providing substantial assistance to a foreign economy, while the purpose of commercial sales is not foreign aid, but rather to dispose of goods on the best possible terms and conditions.

Commodity export incentive and blended credit and short-term direct and guaranteed export credit programs fall into the latter category. The intent of these programs is not to provide foreign aid, but to dispose of surplus goods on the best terms possible.

COST

The Committee is concerned about the cost of cargo preference. This year, the Department of Agriculture will spend over $100 million in subsidies to U.S.-flag ships for shipments made under Public Law 480. In 1984, on average, U.S.-flag ships charged $69.50 more per ton than did foreign flag vessels to carry exported commodities. This means a ship carrying 30,000 metric tons of commodities received a subsidy averaging $2.08 million from the U.S. Treasury for a one-time, one-way crossing.

Although cargo preference is justified by its proponents as being necessary for commercial and military reasons, the cost of cargo preference as it applies to shipments of agricultural commodities is paid through the Department of Agriculture. The Commodity Credit Corporation (CCC) is required to pay this cost. For fiscal year 1985, it is estimated that a supplemental appropriation of $4 billion will be needed to keep CCC fully funded.

Several members of the Committee have indicated their intention to address the issue of funding cargo preference costs through appropriations for agencies other than the U.S. Department of Agriculture. The bill, however, does not address that issue.

It is the Committee's belief that the costs of shipping commodities under U.S. Department of Agriculture and CCC export promotion programs on U.S.-flag ships outweighs the benefits of those export programs.

EFFECTIVENESS OF PROMOTION PROGRAMS

By slightly lowering the effective interest rate, the blended credit program provides an effective price discount of only 3.4 percent, which equates to about $4.00 per metric ton of corn and $5.50 per metric ton of wheat, on sales financed with blended credit. If, for example, the CCC is required to pay an ocean freight differential of $60 per metric ton, then its total cost for a blended credit corn sale would be $64 per metric ton. Only $4.00 of this would benefit the foreign customers while $60 would go from the Department of Agriculture or the CCC to subsidize U.S. merchant marine interests. Under these circumstances, the program would simply not be a cost-effective means of increasing our exports.

A similar situation exists with the commodity export incentive program. Application of cargo preference would add greatly to its cost and might result in no sales being made. Such a situation would be a blow not only to agriculture, but to the transportation and processing industries as well. The Committee believes that any commodity export incentive program, whether it is called a market bonus program, payment-in-kind program or by some other name, would include not only situations in which CCC-acquired commodities are shipped overseas but situations in which CCC-acquired commodities are furnished to U.S. users who use such commodities to grow or produce products that are then shipped overseas.

Should cargo preference ever be applied to short-term direct or guaranteed export credit programs, they too would be rendered inoperable because of the added costs.

SUMMARY

The Committee believes that the recent judicial expansion of the applicability of cargo preference places an undue burden on agricultural producers to support the U.S. merchant marine and is contrary to the intent of Congress regarding the reach of the cargo preference laws.

The Committee's action clarifies the application of the cargo preference laws to the existing programs carried out by the Commodity Credit Corporation and the Secretary of Agriculture. It also clarifies the status of the application of cargo preference to export programs by exempting the programs that are necessary, as determined by the Secretary, to cause U.S. commodities to become or remain competitive under conditions prevailing in international trade. This clarification will promote agricultural trade and exports.

COMMITTEE CONSIDERATION

A. Hearings

On Thursday, April 4, 1985, the full committee, chaired by Senator Boschwitz, held a hearing on S. 721.

The first witness was Senator Don Nickles of Oklahoma. In his testimony, Senator Nickles stated that it was vitally important to overturn the U.S. District Court decision in *Transportation Institute* v. *Dole,* No. 83-3048 (D.D.C. Feb. 21, 1985) that applied cargo preference requirements to the blended credit program. He further stated that, as the result of the decision, $536 million of agricultural commodities were sitting on the dock, and the U.S. was being forced to abrogate agreements made with Egypt, Morocco, and other countries.

Senator Nickles pointed out that S. 721 does not change the applicability of cargo preference to the P.L. 480 program: the bill simply reverses the district court's decision concerning blended credit and states that other programs, to which cargo preference has not been applied, are exempt as well.

Testifying for the Department of Agriculture was Daniel G. Amstutz, Under Secretary of Agriculture for International Affairs and Commodity Programs.

Mr. Amstutz stated that S. 721 was consistent with the practice that concessional sales be subject to cargo preference and that commercial sales be exempt.

He defined concessional sales as sales or donations made under P.L. 480 and section 416 of the Agricultural Act of 1949, shipments of wheat under the food security wheat reserve, sales under P.L. 98-332 (the so-called Whitten sales) direct sales to Africa, and direct credits from the Ex-Im Bank.

He defined commercial sales as those made under Commodity Credit Corporation (CCC) programs, GSM-5, (direct credits), GSM-102 (short-term credit guarantees), and blended credit. He repeated

the support of the Secretary of Agriculture support for the goals of the legislation.

Next to testify was a panel consisting of Mr. Paul Green, Chairman of the Ad Hoc Committee of Agricultural Organizations Involved in Cargo Preference; Mr. Carl Schwensen, Executive Vice President, National Association of Wheat Growers; Mr. Thomas R. Saylor, on behalf of the National Grain and Feed Association; and Mr. W. Glenn Tussey, Associate Director of the Washington Office of the American Farm Bureau Federation.

Mr. Green said his group represented 90 agricultural related organizations that support the legislation. He said the cancellation of the blended credit program as a result of the District Court decision resulted in the loss of 3.5 million tons of wheat and flour exports. The loss of those exports, he said, affected agriculture, agribusiness, and jobs in milling, railroads, barge operations, ports, and longshoring.

Mr. Green indicated his concern that the case would be used to apply cargo preference to other export promotion programs, including GSM-102, and asked that Congress develop other methods of supporting the maritime industry, rather than further burden the agricultural sector and impede competitive agricultural export programs.

Mr. Schwensen stated that wheat is the commodity most affected by the District Court's decision, and that decision affects 3.6 million metric tons of grain shipments destined to important export markets.

Mr. Saylor said that cargo preference legislation is important in order to overturn the District Court's decision with reference to the blended credit program, and to prevent the possible extension of cargo preference requirements to GSM-102, which he called "America's single most used export credit tool."

He stated that cargo preference is incompatible with USDA export credit programs. Cargo preference would increase the cost of grain shipped under blended credit by 15 to 30 percent, resulting in shipping costs of $40 to $70 million in fiscal 1985. Application of cargo preference to the $5 billion GSM-102 program would add $650 million in shipping costs.

He said the National Grain and Feed Association has been and continues to be opposed to all forms of cargo preference.

Mr. Tussey testified that application of cargo preference to commercial sales would cause the United States to become a residual supplier of agricultural products. He stated that the Farm Bureau not only supported the legislation in question, but also the complete elimination of cargo preference requirements from agricultural exports.

Next to testify was a panel consisting of Mr. Frank Drozak, President, Seafarers International Union, Washington, D.C.; and Peter J. Luciano, Executive Director, Transportation Institute, Washington, D.C.

Mr. Drozak testified that cargo preference laws do not add to the price American farmers receive for their products or the price the overseas customers pay for farm commodities. The cost, he said, is borne by the U.S. government.

He stated that the maritime industry faces many of the same problems American agriculture faces, including weak markets, the high dollar, highly-subsidized foreign competition, and restrictive foreign trade barriers. He asked the Committee to reject the bill, and said the maritime and agricultural interests could work together to seek policies to serve their mutual interests.

Mr. Luciano said enactment of the bill would seriously threaten the U.S. merchant marine without achieving compensating benefits for farmers. He said the problem with the blended credit program was caused by Secretary Block suspending it, not the court decision.

He claimed that the Department of Agriculture has or can obtain the funds necessary to cover the costs of cargo preference through the use of appropriated funds, CCC borrowing authority, or the reprogramming of funds.

He also pointed out that the maritime industry had reduced its costs in recent years, and urged the Committee to support efforts to establish a Joint Transportation Office that could work to further reduce costs.

B. Markup

The Committee met in open session on Tuesday, May 14, 1985, to consider legislation relating to the export title of the 1985 farm bill.

Chairman Helms informed the Committee he had received a letter from the Majority Leader and Senators Boschwitz, Boren, Andrews, Wilson, Pryor, Lugar, and McConnell, requesting consideration of the cargo preference issue as separate legislation prior to considering the farm bill.

In his statement, Chairman Helms said the issue was an immediate one because $500 million worth of U.S. agricultural exports are stranded on the docks and that pursuing relief through the courts will be a very long process.

Chairman Helms then presented the language for the bill as prepared by staff.

Mr. Robert Thompson, Assistant Secretary-designate for Economics, USDA, told the Committee the Administration will not object to legislation that returns the rules governing cargo preference application to status quo ante, the court decision.

Senator Zorinsky then suggested the language be used as a substitute for S. 721.

Senator Zorinsky moved the adoption of the amended bill. This was agreed to by a rollcall vote of 14–0.

SECTION-BY-SECTION ANALYSIS

Clarification of the applicability of the cargo preference laws

Subsection (a) provides that section 901 of the Merchant Marine Act, 1936 (46 U.S.C. 1241) and the Joint Resolution of March 26, 1934 (48 Stat. 500, 46 U.S.C. 1241–1) (commonly referred to as the "cargo preference laws") will not apply to export activities of the Secretary of Agriculture or the Commodity Credit Corporation (CCC)—

(1) under which stocks of agricultural commodities or the products thereof acquired by the CCC are made available to United States exporters, users, processors, or foreign purchasers for the development, maintenance, or expansion of export markets for United States agricultural commodities or the products thereof;

(2) under which commercial credit guarantees are blended with CCC direct credits to reduce the effective rate of interest on export sales of U.S. agricultural commodities or the products thereof;

(3) under which credit or credit guarantees for not to exceed 3 years are provided by the CCC to finance or guarantee export sales of U.S. agricultural commodities or the products thereof; or

(4) undertaken for the purpose of promoting the export of U.S. agricultural commodites or the products thereof if the Secretary determines that such activities are necessary to cause such commodities or products to become or remain competitive under conditions prevailing in international trade.

Subsection (a) also provides that any determination made under clause (4) is committed solely to the discretion of the Secretary and is final and conclusive.

Exemptions

Subsection (b) provides that the bill will not limit the application of section 901 of the Merchant Marine Act, 1936, and the Joint Resolution of March 26, 1934, to export activities of the Secretary of Agriculture or the Commodity Credit Corporation that are carried out under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) or subsections (a), (b), and (c) of section 416 of the Agricultural Act of 1949.

Subsection (c) provides that the bill will not apply to any export activity undertaken to carry out any agreement entered into prior to its date of enactment.

COST ESTIMATE

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that enactment of the Committee bill would not have a direct effect on Federal outlays. S. 721 would allow activities under the blended credit program to resume. At the time that program was suspended, the Department of Agriculture had planned to use $107 million under the program during the current fiscal year. Therefore, enactment of the bill would result in outlays to the Federal Government of approximately $100 million in fiscal year 1985, with additional receipts of the same amount over the next 3 years as the loans are repaid. Additional loans and repayments could result in successive years, with no net cost to the Federal Government. To the extent that the use of a blended credit program was able to reduce the amount of commodities stored by the Commodity Credit Corporation, some savings would accrue to the Federal Government, however it is not possible to estimate the amount without making specific assumptions about the administration of the program. The

cost estimates provided by the Congressional Budget Office were the basis for the Committee's estimate. The Congressional Budget Office estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 20, 1985.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 721, a bill to clarify the application of the cargo preference laws in the export of agricultural commodities, as ordered reported by the Senate Committee on Agriculture, Nutrition and Forestry, May 14, 1985. This bill would exempt certain export activities of the Commodity Credit Corporation (CCC) from cargo preference laws. The following activities would be exempted: programs using CCC commodities to develop, maintain, or expand export markets; short-term direct and guaranteed export credit; blended credit; and programs undertaken to promote U.S. agricultural exports if the Secretary of Agriculture determines that such activities are necessary for commodities to remain competitive in international trade.

This bill would have no direct effect on federal outlays. The Department of Agriculture (USDA) does not now pay for ocean shipping or the ocean freight differential for exports generated by activities exempted in the bill. The bill would, however, allow blended credit activities of the CCC to resume. These activities were suspended on February 26, 1985, following a U.S. District Court ruling that exports financed through blended credit are subject to the cargo preference laws.

The USDA has $325 million available during 1985 for export promotion activites. These funds could be used for short-term direct loans, blended with guarantees in the blended credit program, or for other export promotion activities. At the time of suspension of the blended credit program, $107 million had been announced for use in the program during the current fiscal year. No other plans for use of the available $325 million had been announced.

Enactment of this bill would allow the planned $107 million to be used in the blended credit program, generating outlays of that amount during 1985 and receipts over the following three years as the loans are repaid. The USDA would decide how much additional money could be committed to blended credit if this bill were to be enacted, and the department has not yet indicated its plans. Furthermore, the USDA has not yet made clear how available funds would be used if the suspension of the blended credit program remains. In the absence of this information from the department, it is impossible to estimate the effects of this bill on CCC outlay.

The bill would not affect the budgets of state and local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

RUDOLPH G. PENNER, *Director.*

ADMINISTRATION VIEWS

As of the time that S. 721 was reported, the Committee had not received a report from the Administration on the bill. Daniel G. Amstutz, Under Secretary of Agriculture for International Affairs and Commodity Programs testified before the Committee on April 4, 1985, on S. 721. See Committee Consideration for a summary of Mr. Amstutz' testimony.

REGULATORY IMPACT EVALUATION

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out the Committee bill.

As reported, S. 721 clarifies that certain export activities of the Secretary of Agriculture or the Commodity Credit Corporation (CCC) are not covered by the cargo preference laws. The cargo preference laws require that at least 50 percent of certain Government-generated shipments of commodities be transported on private U.S. flag vessels, to the extent such vessels are available at fair and reasonable rates. The bill, however, makes clear that the cargo preference laws would continue to apply to any export activity carried out by the Secretary under the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480) and the foreign commodity donation programs carried out under section 416 of the Agricultural Act of 1949.

On February 21, 1985, the U.S. District Court, for the District of Columbia in *Transportation Institute* v. *Dole,* No. 83-3048, (D.D.C. Feb. 21, 1985) rules that commodity shipments made under the CCC blended credit program were subject to the cargo preference laws. On February 26, 1985, the U.S. Department of Agriculture suspended further shipments under the blended credit program, pending review of the court's ruling. The bill would essentially return the situation regarding the application of cargo preference to Department of Agriculture export programs to its status prior to the court decision.

The bill provides exemption from the cargo preference laws for the following export activities carried out by the Secretary of Agriculture and the Commodity Credit Corporation: (a) programs under which agricultural commodities or their products acquired by CCC are made available to United States exporters, users, processors, or foreign purchasers for the development, maintenance, or expansion of export markets; (b) CCC short-term direct and guaranteed export credit programs; (c) blended credit programs in which CCC short-term direct export credits are combined with CCC short-term export credit guarantees, and (d) programs undertaken to promote the export of U.S. agriculture commodities and their products when such activities are deemed necessary to cause such commodities to become or remain competitive in international trade. Cargo

preference laws will continue to apply to all Public Law 480 and section 416 overseas commodity activities.

The legislation will provide exemption from the cargo preference laws for commercial agricultural export programs of the Department of Agriculture. The CCC blended credit program will be most directly affected. The legislation will allow blended credit program operations to resume; these operations were suspended on February 26, 1985, as a result of a ruling by the U.S. District Court for the District of Columbia that cargo preference requirements are applicable to the blended credit program. Prior to this ruling, the Department of Agriculture did not believe that cargo preference requirements applied to the blended credit program.

At the time of the court decision, $536 million of commodity sales was authorized under the blended credit program for Egypt, Iraq, Morocco, and Tunisia. These sales involved the purchase of more than 3 million tons of U.S. wheat and about 125,000 tons of flour.

Resumption of the blended credit program would result in additional export sales of U.S. wheat products. This in turn would result in greater economic activity in the farm sector and the general economy. U.S. farmers, input suppliers, elevator operators, transport firms, exporters, processors, etc. would be affected. Impact on food prices to consumers is not likely to be significant due to the fact that commodity prices constitute only a small proportion of total food costs to consumers.

Exemption from cargo preference would lower the cost of all wheat shipped under the blended credit program by $10 to $15 per metric ton; for wheat flour a reduction of $25 to $30 per metric ton would result. These commodities would therefore be more competitive in world markets. Blended credit export sales of over $500 million would occur during fiscal year 1985; total tonnage exported through the program would exceed 3 million metric tons.

The U.S. share of importing country markets could be increased through more competitive pricing by U.S. exporters. Over the long-term, increased demand for U.S. farm products abroad could result in a greater share of U.S. productive capacity being dedicated to cash sales abroad. Under current circumstances, a significant portion of the productive capacity of U.S. agriculture is deliberately idled by government programs or is producting surpluses which are costly to U.S. taxpayers.

The blended credit program would result in CCC outlays during fiscal year 1985 for the portion of the program comprised of CCC short-term direct credits. These outlays would be approximately $110 million and have already been incorporated into CCC outlay estimates for the year. Repayments of principal, excluding interest, from importing country participants would be scheduled over the next 3 years.

Regulations for the blended credit program components (i.e. CCC short-term direct credits and credit guarantees) are already operational. No further regulations are anticipated as a result of this legislation. Program participation is voluntary.

This legislation would result in no change in the Public Law 480 and section 416 programs, as cargo preference requirements are presently being complied within these programs. It is presently es-

timated that the added cost of shipping 50 percent of P.L. 480 and section 416 exports on U.S. flag vessels will result in CCC expenditures of over $140 million during fiscal year 1985. This estimate will not change as a result of the legislation. Participation by U.S. flag vessels in export shipments under these programs also should not be affected. Existing regulations pertaining to cargo preference would remain in place and no change would be necessary.

The bill would not have any impact on the personal privacy of the individuals affected.

Any Government program which provides financial assistance must have clearly defined regulatory guidelines and a certain amount of paperwork to ensure proper program administration. The amount of paperwork involved would be comparable to that required under similar Government programs.

ROLLCALL VOTES

In accordance with paragraphs 7(b) and 7(c) of Rule XXVI of the Standing Rules of the Senate, it is announced that—

A motion was offered to report S. 721, as amended by the Committee. The motion was agreed to by a 14 to 0 vote as follows:

Yeas: Dole, Lugar (by proxy), Cochran, Boschwitz (by proxy), Andrews, Wilson (by proxy), McConnell, Zorinsky, Melcher, Pryor, Boren (by proxy), Dixon, Harkin, and Helms.

Nays: None.

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Calendar No. 146

99TH CONGRESS
1st Session

SENATE

REPORT
99-66

EMERGENCY AGRICULTURAL MARKETING AND SALES ACT OF 1985

MAY 20 (legislative day, APRIL 15), 1985.—Ordered to be printed

Mr. HELMS, from the Committee on Agricultural, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 1040]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 1040) to provide emergency assistance to promote the marketing and sales of agricultural commodities, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

SHORT EXPLANATION

The Committee bill authorizes or directs the Secretary of Agriculture to take a number of emergency actions to maintain and enhance foreign markets for U.S. agricultural commodities. S. 1040 establishes a program for the increased use of U.S. agricultural commodities and the products thereof acquired by the Commodity Credit Corporation for purposes of developing foreign markets for such commodities and products by reducing the cost to foreign countries of purchasing such commodities and products. The bill also authorizes the Secretary to guarantee the repayment of intermediate-term (3-10 years) loans to finance the purchase of U.S. agricultural commodities and products.

SUMMARY OF MAJOR PROVISIONS

Market bonus program

The bill requires the Secretary of Agriculture to provide at no cost agricultural commodities and the products thereof acquired by the Commodity Credit Corporation to U.S. exporters and users and

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foreign purchasers to encourage the development, maintenance, and expansion of foreign markets for U.S. agricultural commodities and products. Under this program—

(a) The Secretary is required to ensure that domestic users of U.S. agricultural commodities and products are given equal treatment relative to foreign purchasers and users of U.S. agricultural commodities and products in cases where domestic users would be placed at a competitive disadvantage as a result of the program;

(b) All interested foreign purchasers are to be considered for participation, with priority to be given to those foreign purchasers who have traditionally purchased U.S. agricultural commodities and products and who continue to make such purchases on an annual basis in excess of the level of purchases in a previous representative period;

(c) Commodities must be made available in a manner to encourage increased use and avoid displacing usual marketings of U.S. agricultural commodities and products either in the United States or in foreign markets;

(d) Reasonable care must be taken to prevent the resale or transshipment of agricultural commodities or products to other countries and to prevent the use for other than domestic use in the receiving country of such commodities or products; and

(e) Supplemental distributions of commodities may be made to foreign purchasers who sell the agricultural commodities or products in the importing country and use the proceeds for the construction or rehabilitation of facilities in the importing country to improve the handling, marketing, processing, storage, or distribution capabilities for U.S. agricultural commodities or products in the importing country.

Intermediate export credit

The bill authorizes the Secretary of Agriculture through the Commodity Credt Corporation (CCC) to guarantee the repayment of loans under the intermediate export credit program to finance export sales of U.S. agricultural commodities and the products thereof. Under this section—

(a) The Secretary is authorized to guarantee loans to finance commercial export sales of more than 3 years and not more than 10 years;

(b) The purposes for which intermediate credit financing and guarantees may be provided are broadened;

(c) The repayment of loans financed or guaranteed under this section is required to be in dollars with a rate of interest determined by the Secretary; and

(d) For the purposes of financing and guaranteeing export sales, the CCC is required to make available, to the extent practicable, no less than $500,000,000 for each of the fiscal years 1985 through 1988.

Export credit sales and credit guarantees

The bill authorizes the Secretary of Agriculture to provide agricultural commodities and the products thereof, acquired by the Commodity Credit Corporation (CCC), to countries which do not

meet the financial qualifications for export credit of credit guarantees provided by the CCC to allow such countries to meet such financial obligations.

The Secretary is required, if he exercises the authority under this section, to review and, if appropriate, to adjust annually the amount of agricultural commodities provided to a country under this section in order to encourage the country to place greater reliance on increased use of commercial trade to meet its food needs and thus meet such financial qualifications.

Purpose and Need

Over the past decade, the United States has been the world's largest exporter of agricultural commodities and products, now supplying 74 percent of the soybeans, 58 percent of the feed grains, 37 percent of the wheat, 31 percent of the cotton, and 17 percent of the tobacco and rice moving in world trade.

The value of these exports increased from approximately $7 billion in 1979 to around $43.8 billion in fiscal year 1981, and the volume has more than doubled in that same period. These exports create more than half-a-million domestic jobs in related industries and take the production of two out of every five acres of cropland.

The volume and value of U.S. agricultural exports have dropped sharply, however, since their peaks in the early 1980's. Export volume in fiscal year 1985 is expected to be almost 20 million tons (12 percent below the 162 million shipped in fiscal year 1981. Lower prices have caused an even sharper drop in the value of farm exporters. For fiscal year 1985 the value of farm exports is expected to be down more than $9 billion from the fiscal year 1981 peak of $43.8 million.

U.S. farm income is expected to decline by over 25 percent this year. U.S. carryover stocks of corn, wheat, cotton, and rice, are expected to increase by 24 percent from the levels of 1984. Given the refusal of some of our foreign competitors to participate in a new round of trade negotiations, the Committee believes that some emergency action is necessary to reverse the decline in U.S. farm exports in order to improve farm income and therey prevent the needless demise of many farming operations. These emergency measures are needed to help assure the near-term economic recovery and the long-term stability and growth of U.S. agriculture.

These matters simply cannot wait for the Congress to enact a new farm bill. While the 1985 farm bill will contain a comprehensive trade title, the Committee believes that some interim export credit and export bonus measures are necessary until such time as the U.S. dollar value returns to more reasonable levels and our foreign competitors agree to begin phasing out their massive export subsidy programs.

The tables that follow provide statistical data on U.S. agricultural exports:

TABLE 1.—U.S. AGRICULTURAL TRADE BALANCE, FISCAL YEAR 1977–85

[Dollars in billions]

	Year								
	1977	1978	1979	1980	1981	1982	1983	1984	[1] 1985
Exports	$23.97	$27.29	$31.98	$40.38	$43.78	$39.10	$34.77	$38.01	$34.5
Imports	13.36	13.89	16.19	17.27	17.22	15.48	16.37	18.90	19.5
Trade balance	10.61	13.40	15.79	23.21	25.56	23.62	18.40	19.11	15.0
Export volume (million metric tons)	111.90	131.30	137.40	163.90	162.30	157.90	144.80	143.60	142.50

[1] Forecast March 12, 1985

Source: U.S. Department of Agriculture, Outlook for U.S. Agricultural Exports, Approved by the World Agriculture Outlook Board, Economic Research Service, and Foreign Agriculture Service.

VOLUME OF MAJOR U.S. AGRICULTURAL COMMODITY EXPORTS (FISCAL YEAR BASIS)

[Million metric tons]

Commodity	1981	1982	1983	1984	1985
Corn	59.367	49.608	42.105	47.001	49.5
Wheat and wheat flour	43.606	45.805	38.225	42.774	38.4
Soybeans	19.972	25.477	24.522	19.198	29.0
Grain sorghum	7.702	6.290	5.403	6.226	7.0
Soybean meal	6.154	6.266	6.449	4.931	4.7
Feeds and fodders	5.820	6.000	6.991	6.845	7.0
Horticultural products	3.405	3.139	3.041	2.854	3.0
Rice	3.172	2.911	2.276	2.293	2.0
Barley and oats	1.934	1.980	.949	2.065	2.2
Oilseeds, other then soybeans	1.554	1.647	1.516	1.202	1.2

Source: U.S. Department of Agriculture.

VALUE OF MAJOR U.S. AGRICULTURAL COMMODITY EXPORTS DECLINES (FISCAL YEAR BASIS)

[Dollar amounts in billions]

Commodity	1981	1982	1983	1984	1985
Wheat and wheat flour	$7.965	$7.616	$6.169	$6.737	$5.9
Soybeans	5.986	6.479	5.866	5.714	4.6
Corn	8.966	5.962	5.717	7.022	6.3
Livestock products	3.148	3.164	2.995	3.460	3.3
Horticultural products	3.084	2.851	2.689	2.606	2.7
Cotton and linters	2.248	2.163	1.703	2.405	2.6
Tobacco	1.339	1.486	1.487	1.433	1.6
Soybean cake and meal	1.601	1.453	1.449	1.203	.8
Rice	1.537	1.149	.874	.897	.7
Feeds and fodders	1.012	.998	1.193	1.216	1.2

Source: U.S. Department of Agriculture.

CHANGES IN SALES TO MAJOR REGIONS (FISCAL YEAR BASIS)

[Dollar amounts in billions]

Region	1981	1982	1983	1984	1985
Western Europe	$11.824	$12.164	$10.148	$9.264	$7.7
European Community	8.921	8.894	7.628	6.717	5.8
Other	2.093	3.270	2.519	2.547	1.9
Eastern Europe	2.056	.920	.827	.741	.7
U.S.S.R.	1.706	2.322	.983	2.512	2.7
Asia	16.133	14.137	13.588	15.209	13.6

CHANGES IN SALES TO MAJOR REGIONS (FISCAL YEAR BASIS)—Continued

[Dollar amounts in billions]

Region	1981	1982	1983	1984	1985
Middle East	$1.780	$1.486	$1.482	$1.865	$2.1
South	.598	.711	1.170	.867	.6
Southeast, East	4.832	4.383	4.496	4.849	4.5
Japan	6.739	5.737	5.888	6.935	6.1
China	2.184	1.819	.546	.672	.3
Canada	2.141	1.872	1.870	1.936	1.9
Africa	2.845	2.447	2.272	2.865	2.9
North	1,514	1.389	1.452	1.542	1.7
Other	1.331	1.058	.821	1.327	1.2
Latin America	6.870	4.938	4.858	5.267	4.8
Mexico	2.732	1.493	1.777	1.955	1.5
Central America and Caribbean	1.181	1.112	1.130	1.223	1.2
South America	2.957	2.333	1.952	2.083	2.1
Oceania	.208	.294	.223	.216	.2

Source: U.S. Department of Agriculture

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WORLD AGRICULTURAL TRADE—THE UNITED STATES AND ITS COMPETITORS—OCTOBER–SEPTEMBER YEARS

(Million metric tons)

	United States	Competitors	Others	Total	U.S. market positions (percent)
Wheat:					
1977–78	33.6	30.9	6.7	71.2	47.2
1978–79	33.4	37.6	7.4	78.4	42.6
1979–80	38.3	44.2	3.7	86.2	44.4
1980–81	43.7	44.4	6.0	94.1	46.4
1981–82	45.8	48.7	4.1	98.6	46.5
1982–83	39.4	54.0	6.0	99.4	39.6
1983–84	43.2	59.2	5.7	108.1	40.0
1984–85	38.0	57.8	8.5	104.3	36.4
1985–86	32.5	58.5	7.4	98.4	33.0
Coarse grains:					
1977–78	56.0	27.2	5.9	89.1	62.9
1978–79	59.9	27.9	5.1	92.9	64.5
1979–80	71.4	24.0	4.1	99.5	71.8
1980–81	69.5	33.6	4.9	108.0	64.4
1981–82	58.4	32.7	5.4	96.5	60.5
1982–83	54.0	28.6	7.5	90.1	59.9
1983–84	55.8	30.7	6.0	92.5	60.3
1984–85	58.3	32.4	11.2	101.9	57.2
1985–86	51.8	31.8	10.5	94.1	55.0
Rice:					
1977–78	2.3	7.3	.....	9.6	24.0
1978–79	2.4	9.6	.....	12.0	20.0
1979–80	2.7	10.0	.....	12.7	21.3
1980–81	3.2	9.9	.....	13.1	24.4
1981–82	2.9	8.7	.....	11.6	25.0
1982–83	2.3	9.6	.....	11.9	19.3
1983–84	2.2	10.3	.....	12.5	17.6
1984–85	2.0	10.4	.....	12.4	16.1
1985–86	1.9	9.6	.....	11.5	16.5
Cotton:					
1977–78	1.32	2.05	0.80	4.17	31.7
1978–79	1.34	1.97	0.98	4.29	31.2
1979–80	1.99	2.06	1.00	5.05	39.4
1980–81	1.21	2.14	0.94	4.29	28.2
1981–82	1.49	2.06	0.85	4.40	33.9
1982–83	1.14	1.99	1.10	4.23	27.0
1983–84	1.53	1.81	0.87	4.21	36.3
1984–85	1.39	2.07	1.07	4.53	30.7
1985–86	1.09	2.37	1.05	4.51	24.2
Soybeans:					
1977–78	19.7	3.0	0.2	22.9	86.0
1978–79	20.2	3.6	0.4	24.2	83.5
1979–80	23.8	3.5	0.3	27.6	86.2
1980–81	20.0	4.0	0.3	24.3	82.3
1981–82	25.5	2.0	0.3	27.8	91.7
1982–83	24.5	3.1	0.4	28.0	87.5
1983–84	19.2	5.0	0.9	25.1	76.5
1984–85	18.6	6.1	1.0	25.7	72.4
1985–86	19.1	5.3	1.2	25.6	74.6
Soybean meal:					
1977–78	5.5	7.3	0.4	13.2	41.7
1978–79	6.0	6.6	0.6	13.2	45.5
1979–80	7.2	7.1	0.7	15.0	48.0
1980–81	6.2	9.7	0.6	16.5	37.6
1981–82	6.3	10.2	1.1	17.6	35.8
1982–83	6.4	12.1	1.8	20.3	31.5
1983–84	4.9	11.7	2.0	18.6	26.3

WORLD AGRICULTURAL TRADE—THE UNITED STATES AND ITS COMPETITORS—OCTOBER-SEPTEMBER YEARS—Continued

[Million metric tons]

	United States	Competitors	Others	Total	U.S. market positions (percent)
1984-85	4.4	12.5	1.8	18.7	23.5
1985-86	4.4	13.2	2.0	19.6	22.4
Soybean oil:					
1977-78	0.93	1.42	0.03	2.38	39.1
1978-79	1.06	1.44	0.04	2.54	41.7
1979-80	1.22	1.48	0.09	2.79	43.7
1980-81	0.74	2.06	0.09	2.89	25.6
1981-82	0.94	1.93	0.11	2.98	31.5
1982-83	0.92	2.18	0.12	3.22	28.6
1983-84	0.82	2.44	0.11	3.37	24.3
1984-85	0.75	2.20	0.11	3.06	24.5
1985-86	0.66	2.45	0.11	3.22	20.5
Total commodities:					
1977-78	119.4	79.2	14.0	212.6	56.2
1978-79	124.3	88.7	14.5	227.5	54.6
1979-80	146.6	92.3	9.9	248.8	58.9
1980-81	144.6	105.8	12.8	263.2	54.9
1981-82	141.3	106.3	11.9	259.5	54.5
1982-83	128.7	111.6	16.9	257.2	50.0
1983-84	127.7	121.2	15.6	264.4	48.3
1984-85	123.4	123.5	23.7	270.6	45.6
1985-86	111.5	123.2	22.3	256.9	43.4

MARKET BONUS PROGRAM

One of the tools provided by the bill is a program to use Commodity Credit Corporation (CCC) acquired commodities to aid the Secretary of Agriculture in promoting and increasing exports of U.S. agriculture commodities and products in order to reduce Government stocks, reduce Government outlays under domestic price support programs, and improve returns to farmers.

Under the bill, the Secretary would be specifically required to provide commodities or products acquired by the CCC to U.S. exporters and users and foreign purchasers to encourage the development, maintenance, and expansion of markets for U.S. agricultural commodities and products. The commodities that could be made available included wheat, feed grains, upland cotton, rice, the soybeans and their products, and any other agricultural commodities or products acquired by the CCC. These commodities or products would be provided at no cost.

Under this provision, the CCC could provide commodities held by the CCC to foreign purchasers as an incentive to foreign customers to purchase additional U.S. commodities above the level of normal purchases. For example, if a foreign purchaser that normally purchases a given quantity of a specific commodity agrees to purchase additional quantities, then an amount equal to some portion of the additional purchases could be provided at no cost to the foreign importer. In addition, it is comtemplated that the Secretary could provide commodities or products even though purchases are

less than normal in cases where providing such commodities would contribute to maintaining or expanding U.S.

Providing CCC agricultural commodities to maintaining or expanding U.S. markets.

Providing CCC agricultural commodities could serve to reduce the overall cost of U.S. commodities to foreign purchasers and thereby increase the competitiveness of U.S. products. An example of such use would be to provide commodities to offset the use of export subsidies by competing exporting nations.

The bill calls for the Secretary to take positive steps to improve exports of U.S. commodities. This means price adjustments in some areas to make Government stocks available at competitive prices in foreign markets. In taking this action, the Committee does not want to enlarge the problem that cotton now faces, and perhaps other commodities will face, because of foreign-made products of the commodity coming back into the United States. Accordingly, the bill provides that the program is to be carried out in a manner that gives equal treatment to domestic users of the U.S. agricultural commodity. In the case of cotton this would be the processor, manufacturer, or other user who opens the bale of raw cotton. With domestic users now adversely affected by imports of cotton products, any action taken by the Secretary under this provision with respect to exports is to be accompanied by comparable action for domestic users.

One obvious way to ensure equal treatment for domestic users is to provide to domestic users surplus commodities which in turn can be converted into value-added products for export. Such a method is of value to the producers of the commodity as well as to the user who converts it into the value-added manufactured product.

Other safeguards are also included in the bill. CCC stocks of agricultural commodities and products that are provided under this authority are to be used in such a manner as to encourage increased use either in the United States or in a foreign country and to avoid displacing usual marketing of U.S. agricultural commodities or products.

In addition, the Secretary is required to take reasonable care to prevent the resale of transshipment to other nations, and otherwise assume the domestic use by the destination country, of the agricultural commodities and products provided under this program.

The Secretary is directed to provide all interested foreign purchasers an opportunity to participate. However, priority is to be given to those foreign purchasers who have been traditional buyers of U.S. agricultural commodities and products, and who continue to purchase such commodities and products on an annual basis in quantities larger than the level of purchases over a previous representative period.

In order to encourage increased consumption and storage of U.S. agricultural commodities and products in foreign nations, the bill authorizes the Secretary to provide supplemental amounts of CCC commodities and products to foreign purchasers who use the proceeds from the sale of such commodities or products for the construction or rehabilitation of facilities in the importing country to improve the importing country's capability to handle, market, process, store or distribute U.S. agricultural commodities or products.

This provision will assist in improving long-term markets for U.S. commodities and products. The development of improved ports roads, and other facilites should encourage more efficient and increased utilization of U.S. products in importing countries.

INTERMEDIATE EXPORT CREDIT

Another key element of the bill is an expanded intermediate credit program. Currently, there is only limited direct financing of U.S. agricultural export sales on terms of between 3 and 10 years and no program for guaranteed credit for longer than 3 years. Agricultural customers must either qualify for 20- or 40-year concessional sale credit available through the Public Law 480 Program or for credit guarantees of up to 3 years available through the GSM-102 program.

The Committee believes there is a need for over 3- but not more than 10-year intermediate credit guarantees. This would be particularly helpful in the case of countries no longer eligible for, or wishing to graduate from, the Public Law 480 Program but not yet able to use the short-term GSM–102 program.

The bill makes several changes in the current intermediate export credit program. Probably most important is authorization to provide credit guarantees as well as direct credit financing. When Congress and the Administration are seeking ways to reduce Government spending, use of credit gurantees is an appropriate way to promote export sales of U.S. agricultural commodities with incurring large Government outlays.

The bill broadens the availability of the intermediate export credit program to permit either direct financing or guarnatees of intermediate export credit sales if the Secretary determines that the resulting sales will otherwise promote the export of U.S. agricultural commodites. Also, the bill expands the permissible purposes for which intermediate credit financing and gurantees may be used. In addition to the current purposes, the bill would permit such financing or guarantees to be used to meet competition (not just credit competition) for agricultural export sales and to finance the importation of agricultural commodities by developing nations to meet their food needs.

The bill requires the Commodity Credit Corporation to make available a minimum of $500 million for direct financing or credit guarantees under the intermediate export credit program to promote U.S. agricultural export sales in each of fiscal years 1985, 1986, 1987, and 1988.

The Committee believes that an intermediate export credit program such as provided in the bill will fill a critical gap in U.S. export credit offerings.

AID TO TRADE

As pointed out previously, many countries cannot qualify for the short-term export credit sales program or the intermediate export credit program. The Committee believes that such countries should be encouraged to place greater reliance on increased use of commercial trade to satisfy their food needs. To assist such countries in accomplishing that objective, the bill authorizes the Secretary of

Agriculture to provide these countries with agricultural commodities owned by the Commodity Credit Corporation. Commodities would be provided to the extent necessary to reduce the cost to such countries of purchasing U.S. agricultural commodities and so that such countries can meet export credit qualifications.

If the Secretary exercises this authority, the Secretary must also review and, if appropriate, adjust annually the amount of commodities provided to a country to help it meet the qualifications for export credit or credit guarantees. The ultimate goal is to encourage the country to place greater reliance on increased use of commercial trade.

The Committee believes that this authority will also fill a gap in our export credit programs and encourage additional export sales of U.S. agricultural commodities.

Committee Consideration

On Tuesday, May 14, 1985, the Committee met in open business session for the purpose of marking up the export title of S. 616 and related bills.

Chairman Helms, in response to a written request from a number of Senators, first asked the Committee to consider a cargo preference bill. Senator Cochran then requested that the Committee consider S. 1040 in tandem with cargo preference legislation.

Senator Cochran said S. 1040 is important to give the Secretary of Agriculture the necessary tools to implement the bonus export program. He said the need was immediate, and pointed out that exports of U.S. agricultural commodities declined 11 percent in the first quarter of this year as compared to 1984.

Senator Cochran explained there were essentially five parts to the bill: A market bonus plan, an aid to trade plan, expanded commodity donation authority, expanded intermediate export credit authority, and implementation of a marketing loan for the 1985 crop.

Senator Melcher said the difficulty of attaching the provisions to a cargo preference bill was that such a bill would likely be sequentially referred to another committee, thus slowing the progress of the emergency export provisions.

In response to questioning, Robert Thompson, Assistant Secretary-designate for Economics, USDA, said there would be difficulties in implementing a marketing loan for 1985, inasmuch as the program rules would need to be changed and crops have already been planted, and signup would probably have to be reopened.

Chairman Helms suggested that the sections dealing with a market bonus plan, an aid to trade plan, and expanded intermediate export credit be reported from committee as a separate bill. Senator Zorinksy moved that the bill be so amended and reported. The Committee agreed to the motion by a vote of 14–0.

Section-by-Section Analysis

Short title

The first section of the bill provides that the bill may be cited as the "Emergency Agricultural Marketing and Sales Act of 1985."

Expansion of markets for United States agricultural commodities and products

Section 2(a) requires the Secretary to formulate and carry out a program to provide agricultural commodities and the products thereof acquired by the Commodity Credit Corporation (CCC) to U.S. exporters and users and foreign purchasers to encourage the development, maintenance, and expansion of export markets for U.S. agricultural commodities and the products thereof. Under this program, agricultural commodities and the products thereof would be provided by the CCC to eligible recipients at no cost. The commodities that could be made available include, but would not be limited to, wheat, feed grains, upland cotton, rice, and soybeans, and their products, and any other agricultural commodities and the products thereof acquired by the CCC.

Section 2(b) provides that in carrying out the program under this section, the Secretary must ensure that the program provides equal treatment to domestic and foreign purchasers and users of U.S. agricultural commodities and the products thereof in any case in which the importation of a manufactured product made, in whole or in part, from a commodity or the product thereof made available for export under the program would place domestic users of the commodity or the product at a competitive disadvantage.

Section 2(b) also directs the Secretary, to the extent that agricultural commodities and the products thereof are to be made available to foreign purchasers under the program, to provide all interested foreign purchasers an opportunity to participate in the program, with priority to be given to those foreign purchasers who have been traditional buyers of U.S. agricultural commodities and the products thereof and who continue to purchase such commodities and products on an annual basis in quantities greater than the level of purchases in a previous representative period.

Section 2(b) also requires the Secretary to ensure, insofar as possible, that CCC stocks of agricultural commodities or the products thereof, that are provided to eligible recipients under this section, be used in such a manner as to encourage increased use and avoid displacing usual marketings of U.S. agricultural commodities and the products thereof either in the United States or in foreign markets. Under this subsection, the Secretary is also required to take reasonable care to prevent the resale or transshipment to other countries of the agricultural commodities or the products thereof provided under this program and to prevent the use for other than domestic use in the receiving country of such commodities or products.

Section 2(c) authorizes the Secretary to provide supplemental distributions of CCC commodities or the products thereof to foreign purchasers who sell in the importing country agricultural commodities or the products thereof received from the Secretary under this section and who use the proceeds from such sales for the construction or rehabilitation of facilities in the importing country to improve the importing country's capability to handle, market, process, store, or distribute U.S. agricultural commodities or the products thereof. Supplemental distributions under this subsection would be made with such commodities or products, in such

amounts, and at such times as the Secretary considers appropriate, taking into account the extent to which the facility improvements have been made, the capability of the importing country to distribute and use additional commodities or products, and such other factors consistent with the purposes of this section as the Secretary determines appropriate.

Section 2(d) provides that the Secretary shall carry out the program authorized by this section through the CCC.

Section 2(e) authorizes the Secretary to issue such regulations as are deemed necessary to carry out this section.

Section 2(f) provides that the authority provided in this section is in addition to and not in place of any other authority provided to the Secretary or the CCC under any other provision of law.

Intermediate export credit

Section 3 amends the intermediate export credit program established by section 4(b) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)) to make several changes in that program.

Paragraph 1 of section 3 authorizes the Commodity Credit Corporation (CCC) to guarantee the repayment of loans made to finance commercial export sales for more than 3 years and less than 10 years.

Paragraph 2 makes guaranteed export sales subject to the current requirement that no export sale may be financed under the intermediate credit program unless the Secretary determines that the sale will (1) develop the importing nation as a foreign market on a long term basis for the commercial sale and export of U.S. agricultural commodities without displacing normal commercial sales or (2) otherwise improve the importing nation's ability to purchase and use on a long-term basis U.S. agricultural commodities.

Paragraph 3 includes intermediate credit guarantees in the provision of current law setting forth the permissible purposes for intermediate credit financing. Paragraph 3 broadens the uses of intermediate credit financing and guarantees to allow such use to meet competition for agricultural export sales (not just credit competition as under current law) and to finance the importation of U.S. agricultural commodities by developing nations for use in meeting their food needs. In addition to these purposes, the other permissible purposes for intermediate credit financing and guarantees would include (1) establishing reserve stocks consistent with international commodity agreements or other stock building plans acceptable to the United States; (2) the export sale of breeding animals including the cost of freight from the United States to other nations; and (3) the establishment of facilities in the importing nation to improve the handling, marketing, processing, storage, or distribution of imported agricultural commodities.

Paragraph 4 deletes the current prohibition on the use of intermediate credit financing to encourage credit competition or for foreign aid or debt rescheduling.

Paragraph 5 amends the terms of credit for export sales financed with intermediate credit to provide that repayment is required in dollars at a rate of interest determined by the Secretary and that contracts of guarantee under the intermediate credit program are

required to contain such terms and conditions as the CCC shall determine.

Paragraph 6 includes commodities purchased with guarantees in the requirement that the Secretary, wherever feasible, obtain commitments from purchasers that will prevent resale or transshipment to other nations of commodities purchased with financing provided under the intermediate credit program.

Paragraph 7 includes agreements to guarantee export sales of agricultural commodities in the requirement that agreements to finance export sales of agricultural commodities, except agreements to finance sales to establish reserve stocks, are subject to such other terms which the Secretary deems necessary and are subject only to review by the National Advisory Council on International Monetary and Financial Policies. This paragraph also includes agreements to guarantee export sales in the requirement that agreements to finance export sales of agricultural commodities for the establishment of reserve stocks and subject to terms the Secretary deems necessary and that no such agreement may become effective until 30 days (60 days if Congress is not in session) after a summary of the proposed agreement, along with a determination by the President that the financing is not adverse to U.S. producers of agricultural commodities, is transmitted to the Senate and House agriculture committees.

Paragraph 8 includes guaranteed export sales in the provision that the cargo preference laws do not apply to export sales financed under the intermediate credit program.

Paragraph 9 requires the CCC to make available, to the extent practicable, no less than $500,000,000 for each of the fiscal years 1985, 1986, 1987, and 1988 for purposes of financing or guaranteeing export sales under the intermediate credit program.

Export credit sales and credit guarantees

Section 4 of the bill amends section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a) to provide specific authority for the Secretary of Agriculture to provide agricultural commodities, acquired by the Commodity Credit Corporation (CCC) through price support operations, to countries that do not meet the financial qualifications for export credit or credit guarantees provided by the CCC under the intermediate credit program. The Secretary would be authorized to provide these commodities to a country to the extent necessary to reduce the cost to the country of purchasing United States agricultural commodities and to allow the country to meet such financial qualifications. The section also requires the Secretary, if he exercises the authority under this section, to review and, if appropriate, to adjust annually the amount of commodities provided to a country under this section in order to encourage the country to place greater reliance on increased use of commercial trade to meet its food needs and to meet such financial qualifications.

Cost Estimate

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee submits the following estimate

of the cost of carrying out the bill. The Committee finds it difficult to estimate whether the bill would result in any additional costs to the Federal Government. This would depend on the administration of the bill and on a complex set of economic factors. However, the bill provides the Secretary with sufficient discretionary authority to fashion an export program that should not result in additional costs to the Federal Government. Therefore the Committee adopts the cost estimate provided by the Congressional Budget Office. That estimate follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 20, 1985.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressinal Budget Office has reviewed S. 1040, the Emergency Agricultural Marketing and Sales Act of 1985, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry, May 14, 1985. This bill would require the Secretary of Agriculture to carry out certain programs designed to expand markets for U.S. agricultural commodities.

Section 2 of the bill would require the Secretary of Agriculture to provide Commodity Credit Corporation (CCC) stocks at no costs to U.S. exporters and users and foreign purchasers to encourage exports of U.S. commodities. On May 15, 1985, the Secretary announced an Export Enhancement Program that would be carried out under existing authority. Details on the announced program are not yet available but, according to information provided by the Department of Agriculture, the program is similar to that which the Secretary would be directed to conduct by this bill.

At this time CBO is unable to estimate the budget impact of the program mandated in this bill or the one announced by the Secretary. The budget costs or savings resulting from such a program would depend on how the program is administered, and on many factors that are difficult to predict, including the responses of competing exporters to this program. The use of commodities from CCC stocks would have no direct outlay effect except for reductions in storage costs. The program would have an indirect effect on CCC price support outlays if domestic commodity prices are affected by any change in exports brought about by the program. Downward pressure on domestic prices, and an increase in CCC price support outlays, could occur if the increase in total exports were less than the amount of CCC stocks used in the program. On the other hand, if total exports were to increase by more than the amount of CCC stocks used, upward pressure on domestic prices and a reduction in CCC price support outlays could result. With a large-scale program, it might be difficult to avoid displacing some commercial export sales, thus putting downward pressure on domestic prices and raising CCC outlays.

Section 3 of the bill would establish authority for the CCC to guarantee loans of three- to ten-year maturities made to finance export sales and would require that at least $500 million a year in direct or guaranteed loans be made available during fiscal years

1985 through 1988. The Secretary would have discretion as to whether direct credit or loan guarantees would be provided. If the entire amount were to be offered as loan guarantees rather than as direct credit, federal outlays would only result if importing country participants failed to make repayment. There is no historical experience for intermediate export credit on which to base an estimate of costs resulting from loan defaults, but some defaults are likely.

If the entire amount were to be offered as direct credit at interest rates equal to the CCC's cost of borrowing from the Treasury and with an average maturity of seven years, the estimated effect on outlays would be that shown in the table below. It is assumed in this estimate that $200 million of the available $500 million would be used during fiscal year 1985.

[By fiscal year, in millions of dollars]

	1985	1986	1987	1988	1989	1990
Estimated budget authority	200	460	355	250	−350	−350
Estimated outlays	200	460	355	250	−350	−350

In addition to direct effects on outlays, providing additional credit may increase total U.S. exports, which would tend to enhance prices in domestic markets and reduce CCC price support outlays. CBO estimates that between $25 million and $75 million annually could be saved through reduced CCC outlays during fiscal years 1986 through 1989. The amount of the savings would depend upon the type of credit offered, the types of commodities purchased with the credit, as well as the responses of countries receiving the credit and of foreign exporters competing for the same markets.

Section 4 of the bill would authorize the Secretary of Agriculture to provide CCC commodities to countries to assist them in meeting financial qualifications for direct or guaranteed export credit. This provision would provide incentives to purchase U.S. commodities similar to those provided under Section 2 of the bill and would have similar budgetary effects. As with the program in Section 2, CBO is unable to estimate the budget impact of this provision at this time.

Enactment of this bill would not affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

ADMINISTRATION VIEWS

As of the time that S. 1040 was reported, the Committee had not received a report from the Administration on the bill.

REGULATORY IMPACT EVALUATION

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation

of the regulatory impact that would be incurred in carrying out the Committee bill.

NUMBER OF INDIVIDUALS AND BUSINESSES AFFECTED

Section 2 of S. 1040 provides for the expansion of markets for U.S. agricultural commodities and the products thereof. The Secretary of Agriculture would provide agricultural commodities and the products thereof acquired by the Commodity Credit Corporation (CCC) to U.S. exporters, users, and foreign purchasers at no cost to encourage the development, maintenance, and expansion of export markets for U.S. agricultural commodities and the products thereof.

If commodities are given to foreign purchasers, priority for receipt of the commodities is to be given to foreign purchasers who have traditionally purchased U.S. agricultural commodities and the products thereof. The Secretary of Agriculture is required to ensure that the program provides equal treatment to domestic and foreign purchasers and users of U.S. agricultural commodities and the products thereof. The program is intended to encourage increased use and discourage displacement of usual U.S. marketings. Resale or transshipment to other countries or use for other than domestic use in the importing country are to be prevented.

Foreign purchasers who sell the commodities in the importing country and invest the proceeds in the construction or rehabilitation of facilities in that country to improve handling, marketing, processing, storage or distribution of U.S. agricultural commodities will be eligible to receive supplemental distributions of agricultural commodities or the products thereof.

The provision for intermediate export credit in section 3 of the bill establishes authority for the CCC to guarantee the repayment of loans made to finance export sales of agricultural commodities out of CCC and private stocks on credit terms in excess of 3 years but not more than 10 years. In addition, intermediate export credit may be made available to finance the importation of agricultural commodities and the products thereof by developing nations for use in meeting their food needs. Other uses include establishment of reserve stocks, export sales of breeding animals, establishment of facilities for handling, marketing, and processing of imported agricultural commodities, and sales to meet competition for agricultural export sales.

The CCC is to make available to the extent practicable, no less than $500 million in direct or guaranteed credit under this section for each of the fiscal years 1985 through 1988.

Under the export credit sales and credit guarantees provision of the bill, section 4, the Secretary is authorized to provide agricultural commodities, acquired by the CCC through price support operations, to countries which do not meet the financial qualifications for export credit to the extent necessary to reduce the cost to such countries of purchasing U.S. agricultural commodities and to allow such countries to meet such qualifications. The Secretary is required, if he exercises his authority under the program, to annually review and adjust the amount of commodities provided to a country in order to encourage such country to place greater reli-

ance on commercial trade to meet its food needs and qualify for export credit.

The legislation will result in certain regulatory requirements, which must be met by those who participate in these programs, but program participation would be voluntary. As with any government program that provides financial assistance, these programs must have clearly defined regulatory guidelines and a certain amount of paperwork to ensure that Government resources are efficiently and effectively utilized.

ECONOMIC IMPACT

If additional export sales are achieved by providing Commodity Credit Corporation (CCC)-owned commodities and the products thereof to U.S. exporters, the potential exists for greater economic activity in the farm sector and general economy. U.S. farmers, input suppliers, elevator operators, transport firms exporters, and processors would be affected. Impact on food prices to consumers is not likely to be significant due to the fact that commodity prices constitute only a small proportion of total food costs to consumers.

Additional export sales could be achieved by lowering costs to importing countries that purchase U.S. agricultural commodities and the products thereof in world markets. World prices could be lower as a result. The U.S. share of importing country markets could be increased through more competitive pricing by the United States, but this would depend on competitors' responses.

Implementation of the provision would reduce CCC stocks and, in turn, reduce government storage and interest cost of carrying these stocks. Lower CCC stocks could increase the potential for upward movement in U.S. commodity prices. Making commodities available from CCC stocks would not require cash outlays as would a cash subsidy program. However, realized losses to CCC would occur, since CCC investment costs in those commodities would not be recovered. Restoration of CCC borrowing authority through a congressional appropriation would be required.

Over the longer term, if the program is successful in reestablishing U.S. markets and in building new demand for U.S. farm products abroad, more of the U.S. productive capacity could be dedicated to cash sales abroad. Under current circumstances, a significant portion of the productive capacity of U.S. agriculture is either deliberately idled by government programs or is producing surpluses which are costly to U.S. taxpayers.

The historic objective of the Intermediate Export Program has been to stimulate demand for U.S. farm products by helping build an infrastructure in importing countries which would (1) increase the expansion of markets and consumption of agriculture products through new or improved marketing facilities or (2) developing livestock sectors. Expansion of the existing authorities to include "food needs" would broaden the scope of the program and result in greater demand for intermediate credit, especially if recipient nations receive CCC commodities to facilitate their qualifying for the credit, as they may under the bill.

If the intermediate credit program is able to stimulate additional demand, some upward pressure on market prices could result in

the near term, and some reduction in government costs could occur. The program could increase economic activity in the farm sector and general economy and affect a wide range of agriculturally related industries.

If the program was implemented using credit guarantees in lieu of direct credit, no CCC outlays would be required unless importing country participants failed to make repayments. The U.S. banking sector would provide the financing with Federal (CCC) guarantees and would be required to follow specific program regulations. If the program were implemented through a direct credit program, cash outlays by the CCC would be required. These outlays could be offset in future years by receipts, including interest, assuming repayments were made on schedule. U.S. financial institutions would also be involved as an intermediary between CCC and importing country participants.

Under the export credit sales and credit guarantees provisions of the bill, the potential exists for increased U.S. exports and lower U.S. Government stocks with other attendant impacts on the farm sector and government costs.

Access to GSM–5 direct credit and to the intermediate credit program (direct credit or guaranteed) should be facilitated in cases where cash-short countries do not qualify under regular terms. Providing such countries with commodities so as to reduce their need to expend hard currencies should enchance U.S. exports through increased purchasing power of the recipient countries. These provisions could facilitate repayment by some importing countries of credit extended by the United States.

PERSONAL PRIVACY

The bill would not have any impact on the personal privacy of the individuals affected.

PAPERWORK IMPACT

Any Government program that provides financial assistance must have clearly defined guidelines and necessarily entail a certain amount of paperwork to ensure proper program administration. The amount of paperwork involved in the program under the bill will be comparable to that required under similar Government programs.

In accordance with paragraph 7(b) and 7(c) of Rule XXVI of the Standing Rules of the Senate, it is announced that—

A motion was offered to report S. 1040, as amended by the Committee. The motion was agreed to be a 14 to 0 vote as follows:

YEAS: Dole, Lugar (by proxy), Cochran, Boschwitz (by proxy), Andrews, Wilson (by proxy), McConnell, Zorinsky, Melcher, Pryor, Boren (by proxy), Dixon, Harkin, and Helms.

NAYS: None.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in

black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FOOD FOR PEACE ACT OF 1966

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SEC. 4. (a) Commercial export sales of agricultural commodities out of private stocks in credit terms of not to exceed three years may be financed by the Commodity Credit Corporation under its export credit sales program.

(b)(1) Export sales of agricultural commodities out of Commodity Credit Corporation and private stocks on credit terms in excess of three years, but not more than ten years, may be financed by the Commodity Credit Corporation. *In addition, the Corporation may guarantee the repayment of loans made to finance such sales.*

(2) No export sale may be financed, *and no loan may be guaranteed,* under this subsection unless the Secretary of Agriculture determines that the sale will—

(A) develop, expand, or maintain the importing nation as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities without displacing normal commercial sales; or

(B) otherwise improve the capability of the importing nation to purchase and use, on a long-term basis, United States agricultural commodities.

(3) Consistent with the provisions of paragraph (2) of this subsection, intermediate credit financing *or guarantees* under this subsection may be made available for the following uses:

(A) to establish reserve stocks consistent with international commodity agreements or other stock building plans acceptable to the United States;

(B) the export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations;

(C) where determined feasible, for the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities (through the use of local currency generated from the import and sale of United States agricultural commodities to finance all or part of such facilities; [and]

(D) to meet [credit] competition for agricultural export sales [.]*; and*

(E) to finance the importation of United States agricultural commodities by developing nations for use in meeting their food needs.

[(4) Intermediate credit financing under this subsection may not be used to encourage credit competition, or for the purpose of foreign aid or debt rescheduling.]

[(5)] *(4)(A)* The terms of credit for export sales financed under this subsection shall include the following terms:

[(A)] *(i)* Repayment shall be in dollars with interest at a rate [equal, as nearly as practicable, to the rate charged by the Commody Credit Corporation for financing under the Cor-

poration's short-term export credit sales program] *determined by the Secretary.*

[(B)] *(ii)* The Secretary may, if the Secretary deems such action appropriate to protect the interests of the United States, require an initial payment from the purchaser at the time of sale or shipment of the agricultural commodity.

(B) Contracts of guarantee under this subsection shall contain such terms and conditions as the Commodity Credit Corporation shall determine.

[(6)] *(5)* The Secretary shall, wherever feasible, obtain commitments from purchasers that will prevent resale or transshipment to other nations of agricultural commodities purchased with financing *or guarantees* provided under this subsection.

[(7)(A)] *(6)(A)* Agreements to finance *or guarantee* export sales of agricultural commodities entered into under this subsection, except agreements to finance *or guarantee* export sales for the establishment of reserve stocks, shall be subject to such other terms and conditions as the Secretary may beem necessary or appropriate and shall be subject only to review by the National Advisory Council on International Monetary and Financial Policies.

(B) Agreements to finance *or guarantee* export sales of agricultural commodities under this subsection for the establishment of reserve stocks shall be subject to such other terms and conditions as the Secretary may deem necessary and appropriate. No such agreement may become effective or be carried out until the expiration of thirty days following the date on which a detailed summary of such proposed agreement, together with a determination by the President that such financing *or guarantee* is not adverse to the interests of United States producers of agricultural commodities, is transmitted by the Secretary to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives, if transmitted while Congress is in session, or sixty days following the date of transmittal if transmitted while Congress is not in session.

[8] *(7)* the provsions of the cargo preference laws shall not apply to export sales financed *or guaranteed* under this subsection.

[9] *(8)* The authority provided under this subsection shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(9) For purposes of financing or guaranteeing export sales under this subsection, the Commodity Credit Corporation shall make available, to the extent practicable, no less than $500,000,000 for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.

(c) The term "agricultural commodity" as used in this section includes any agricultural commodity or product thereof. (7 U.S.C. 1707a(c).)

(d) (1) There is hereby established in the Treasury a revolving fund to be known as the Agricultural Export Credit Revolving Fund, which shall be available without fiscal year limitation for use by the Commodity Credit Corporation (hereafter referred to in this subsection as the "Corporation") for financing in accordance

with this section and section 5(f) of the Commodity Credit Corporation Charter Act the following—

(A) commerical export sales of United States agricultural commodities out of private stocks or stocks owned or controlled by the Corporation on credit terms of not to exceed three years;

(B) export sales of United States breeding animals (including, but not limited to cattle, swine, sheep, and poultry, including the cost of freight from the United States to designated points of entry in other nations; and

(C) the establishment of facilities in importing countries to improve the capacity of such countries for handling, marketing, processing, storing, or distributing fungible agricultural commodities produced in and exported from the United States (through the use of local currency generated from the sale of United States agricultural commodities).

(2) The Corporation shall use the revolving fund only to extend credit for purposes of market development and expansion and only where there is substantial potential for developing or enhancing regular commercial markets for United States agricultural commodities.

(3) The Secretary of Agriculture shall ensure that the revolving fund is used in such a manner as to involve equitable use of the funds to finance sales to the greatest feasible number of countries consistent with maximizing market opportunities. In carrying out this objective, the Secretary shall establish procedures under which—

(A) not less than 85 per centum of the estimated amount in the revolving fund for any fiscal year shall be made available for the purposes provided in clause (A) of paragraph (1) of this subsection; and

(B) not to exceed 25 per centum of the estimated amount in the revolving fund for any fiscal year shall be made available for the financing of credit sales to any one country for the purposes described in paragraph (1) of this subsection.

(4) There are authorized to be appropriated to the Agricultural Export Credit Revolving Fund such sums as may be necessary to carry out the provisions of this subsection. All funds received by the Corporation in payment for credit extended by the Corporation using the revolving fund, including interest or other receipts on investments and credit obligations, in financing export sales of the types specified in paragraph (1) of this subsection shall be added to and become a part of such revolving fund.

(5) The Secretary shall submit an annual report to Congress not later than December 1 of each year with respect to the use of the revolving fund in carrying out export credit sales by the Corporation in the previous fiscal year. Such report shall include, for the previous fiscal year, the names of the countries extended credit under this subsection, the total amount of such credit extended to each such country, the names of the United States exporters that received any such credit, the total amount of credit provided to each such exporter stated separately for each commodity for which the credit was extended, and a discussion and evaluation of the market development and expansion activities of the Corporation

under this subsection during such fiscal year. The first such report shall be submitted to Congress not later than December 1, 1982.

(6) The revolving fund created by this subsection is abolished effective October 1, 1985, and all unobligated money in such fund on September 30, 1985, shall be transferred to and become part of the miscellaneous receipts account of the Treasury.

(7) The authority provided under this subsection shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Corporation under any other provision of law.

(8) The authority provided under this subsection to incur obligations to make loans shall be effective only to the extent that such obligations do not exceed annual limitations on new direct loan obligations which shall be provided in annual appropriations Acts.

(e)(1) If a country does not meet the financial qualifications for export credit or credit guarantees provided by the Commodity Credit Corporation under this section, the Secretary of Agriculture may provide to such country agricultural commodities acquired by the Corporation through price support operations to the extent necessary to reduce the cost to such country of purchasing United States agricultural commodities and to allow such country to meet such qualifications.

(2) If the Secretary exercises the authority under paragraph (1), the Secretary shall review and, if appropriate, adjust annually the amount of commodities provided to a country under paragraph (1) in order to encourage such country to place greater reliance on increased use of commercial trade to meet the qualifications referred to in paragraph (1).

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